

**FILED**

MAR 01 2023

**AFFIDAVIT**

1. I, Wesley P. Leatham, being duly sworn, state the following information to be true to the best of my knowledge, information and belief:

U.S. District Court  
Eastern District of Tennessee  
At Knoxville

**I. INTRODUCTION**

2. This affidavit is made in support of an application to search a gray TCL flip style cellular telephone, Model: 4058L, IMEI: 359297750064726, hereinafter referred to as "TCL cell phone", which is currently in possession of the Federal Bureau of Investigation ("FBI") and stored at the FBI Knoxville Field Office Evidence Control Room, located at or near 1501 Dowell Springs Boulevard, Knoxville, Tennessee 37909. Further description and photographs of the TCL cell phone are attached hereto as Attachment A and are fully incorporated herein.

**II. AGENT BACKGROUND AND EXPERIENCE**

3. I am a Special Agent with the Federal Bureau of Investigation ("FBI") and have been so employed since April 2009. Pursuant to Title 18 of the United States Code, Section 3052, I am authorized to carry firearms, serve warrants and subpoenas issued under the authority of the United States, and make arrests. Additionally, I am empowered to make seizures under warrant for violation of the laws of the United States, pursuant to Title 18 of the United States Code, Section 3107. My primary duties and responsibilities involve the investigation of violations of federal law including violent crime as found in Title 18 of the United States Code, and the Controlled Substances Act as found in Title 21 of the United States Code. I am currently assigned to the Knoxville Field Office of the FBI and am assigned to the Violent Crime Squad/Safe Streets Task Force. During my tenure as an FBI Special Agent, I have investigated numerous crimes including, but not limited to, bank robbery, carjacking, Hobbs Act Robbery, violent gangs and organized crime, kidnapping, violent crime against children, drug trafficking organizations, and fugitives. More specifically, I have conducted physical surveillance, executed search warrants, analyzed phone and internet records, and arrested criminal suspects. I have also spoken to confidential human sources, suspects, defendants, witnesses, and other experienced investigators concerning the methods and practices of the criminal element. I have received training and have experience in interviewing and interrogation techniques, arrest procedures, evidence collection, search and seizure, search warrant applications, and various other investigative techniques. Prior to joining the FBI, I was employed as a state trooper with the Utah Highway Patrol for over nine (9) years, and have over twenty-three (23) years of experience as a law enforcement officer.

4. Except as noted, all of the information contained in this affidavit is either known to me personally or has been told to me by other law enforcement officials. Because this affidavit is being submitted for the limited purpose of obtaining a search warrant, I have set forth only those facts necessary to establish probable cause, and have not included each and every fact known to me in this investigation.

### **III. APPLICABLE LAW**

5. Title 18, United States Code, Section 2113 (a) and (f) punishes whoever, by force and violence, or by intimidation, takes, or attempts to take, from the person or presence of another, or obtains or attempts to obtain by extortion any property or money or any other thing of value belonging to, or in the care, custody, control, management, or possession of any bank whose accounts are insured by the Federal Deposit Insurance Corporation ("FDIC").

6. Title 18, United States Code, Section 924(c) punishes whoever uses, possesses, or brandishes a firearm in furtherance of a crime of violence for which the person may be prosecuted in a court of the United States.

### **IV. PROBABLE CAUSE**

7. On January 24, 2023, at approximately 3:15 p.m., Blount County Sheriff's Office ("BCSO") Emergency Communications Dispatch received a 9-1-1 telephone call from an unknown male caller who identified himself only as "Jason". The caller reported an active situation at the Walmart, located in Alcoa, Tennessee, which is within the Eastern District of Tennessee. The caller stated a Walmart employee was armed with a firearm and was holding two (2) other employees at gunpoint in the back office. The call was received from telephone number (911) 500-6472. Subsequent database inquiries for the telephone provider and subscriber produced negative results.

8. Numerous law enforcement officers responded to the Walmart, located at or near 1030 Hunters Crossing Drive, Alcoa, Tennessee, and subsequently determined the information reported in the 9-1-1 telephone call was false. Your affiant has received copies of the body-cam footage from Blount County Sheriff's Deputies that responded to the Walmart incident. After viewing these files, there were approximately 30 deputies with body cameras that responded to the scene.

9. On January 24, 2023, at approximately 3:26 p.m., a lone white male, hereinafter referred to as "ROBBER", arrived at the parking lot of CBBC Bank, located at or near 2041 Topside Road, Louisville, Tennessee 37777. The ROBBER arrived on a motorcycle, which he parked in the bank parking lot. The ROBBER then entered CBBC Bank, which is located within the Eastern District of Tennessee.

10. The CBBC Bank at 2041 Topside Road, Louisville, Tennessee is approximately 6.5 miles from the Walmart located at or near the Walmart at 1030 Hunters Crossing Drive, Alcoa,

Tennessee. Both locations are within the Blount County Sheriff's Office's jurisdiction. Additionally, both locations are within the jurisdiction of the Alcoa, Tennessee Police Department. Louisville, Tennessee does not have a police department and relies upon the Blount County Sheriff's Office and parts of the City of Louisville rely upon Alcoa Police Department for law enforcement services, including the CBBC Bank on Topside Road. The Blount County Sheriff's Office has approximately 200 sworn deputies in total. Deputies that are on patrol duty at any given time is significantly less than 200. The Alcoa Police Department has approximately 50 sworn police officers in total. Based upon my training and experience, the distance between the Walmart and CBBC Bank, and the short time-lapse between the Walmart incident and the bank robbery, your affiant believes the ROBBER made a false 911 call as a ruse to distract law enforcement away from the CBBC Bank.

11. The ROBBER was wearing a black beanie hat, a white dress shirt with a tie under a black jacket, blue pants, and black shoes. The ROBBER was carrying a manila folder in his right hand. The ROBBER had a beard.

12. The ROBBER approached the teller counter and asked to speak to a manager. The ROBBER then sat in the lobby as he waited for the manager.

13. The manager, whose identity is known to law enforcement, hereinafter referred to as "VICTIM", came out of her office, greeted the ROBBER in the lobby, and asked him to enter her office. Once inside the VICTIM'S office, the ROBBER stated he had a problem with his account. The ROBBER then told the VICTIM he needed to go outside to get his identification. The ROBBER exited the bank into the parking lot.

14. The ROBBER reentered the CBBC Bank a short time later and returned to the VICTIM'S office. The ROBBER then brandished a dark colored revolver and said something similar to, "Go to your vault and give me all your money." The VICTIM complied with the ROBBER'S demand, exited her office, and began walking to the bank vault. The ROBBER followed behind the VICTIM holding the revolver in his left hand.

15. The VICTIM asked the teller for the keys to the vault, which she provided to the VICTIM. The VICTIM then entered the bank vault, followed by the ROBBER. The VICTIM began removing stacks of United States currency from the vault and placed it inside of a maroon colored CBBC reusable grocery bag, which she handed to the ROBBER. The ROBBER took the bag full of currency and exited the bank.

16. The ROBBER returned to his motorcycle in the bank parking lot, put on a black motorcycle helmet, and fled the scene on the motorcycle with the bag full of currency.

17. A short time later, a male whose identity is known to law enforcement, hereinafter referred to as "WITNESS", was traveling eastbound on I-140 onto the on-ramp to go southbound on Highway 129 in his vehicle. The WITNESS observed a motorcyclist passing his vehicle on



the left shoulder, even though the on-ramp was a single travel lane. The WITNESS then observed the motorcycle attempt to pass 3 to 4 other vehicles on the left shoulder. The WITNESS observed the motorcycle travel off the roadway, down a grass embankment and crash. The WITNESS stopped and got out of his vehicle to check on the driver of the motorcycle. The WITNESS observed large amounts of cash in the crash debris in the grass. The WITNESS attempted to help the driver of the motorcycle, who got to his feet and fled on foot across the on-ramp toward the direction of the Airport Auto Auction, located at or near 1733 Chandler Road, Alcoa, Tennessee.

18. Special Agents of the Federal Bureau of Investigation ("FBI") and officers from the Alcoa Police Department responded to the CBBC Bank and to the scene of the motorcycle crash. Upon arrival at the scene of the motorcycle crash, I observed a large amount of United States currency in the crash debris on the grass embankment. Upon closer inspection, I observed several stacks of United States currency containing bank bands that were stamped "CBBC bank" in the debris. I also observed a black zipper bag containing several stacks of United States currency with bank bands stamped "CBBC bank". Under some of the currency in the grass, I observed a black revolver that was missing the handgrips. Upon further inspection, I observed the make, model, and serial number of the firearm appeared to be obliterated. For public and officer safety reasons, I opened the cylinder of the revolver to see if it was loaded while wearing gloves. The cylinder was loaded with six (6) live .38 Special cartridges. I also observed the TCL cell phone in the grass with the other items in the crash debris. Based upon where this phone was recovered and the other items in the crash debris that match descriptions of the ROBBER, your affiant believes the phone belonged to the ROBBER.

19. Additionally, I observed a black beanie hat in the crash debris in the grass. As I approached the motorcycle, I observed some of the characters on the license plate appeared to have been intentionally altered. The motorcycle also had strips of red tape stuck to the rear fender, and a black trash bag covering the gas tank. I collected the United States currency, the black zipper bag containing United States currency, the black revolver and ammunition, the TCL cell phone, the black beanie hat, and several other items as evidence.

20. Law enforcement officers located a white male with a beard, wearing a white shirt, black jacket, blue pants, and black shoes a short distance from the motorcycle crash site, in the vicinity of the Airport Auto Auction, located at or near 1733 Chandler Road, Alcoa, Tennessee. The male had tears in his clothing and blood on his face. The male was taken into custody and was identified as Richard Desmond Hines Jr., hereinafter referred to as "HINES". Hines had a maroon colored CBBC Bank reusable grocery bag containing a large amount of United States currency in his possession, which was seized incident to arrest.

21. Ambulance personnel responded to the arrest location and treated HINES at the scene. After being released by ambulance personnel, HINES was transported to the Alcoa Police Department for questioning.

22. FBI Special Agents and Alcoa Police Department officers at the CBBC Bank conducted victim and witness interviews and reviewed CBBC Bank surveillance cameras, which captured the robbery in progress. CBBC Bank surveillance cameras also captured the ROBBER arriving and leaving on the motorcycle. I viewed still images of the ROBBER from CBBC Bank surveillance video.

23. After viewing the still images of the ROBBER, I attempted to interview HINES at the Alcoa Police Department. Upon viewing HINES and his clothing, I believed he was the same person who robbed the CBBC Bank. HINES was not able to be interviewed due to unresponsiveness and complaints of back pain. An ambulance was called for HINES and he was transported to Blount County Memorial Hospital for further evaluation.

24. The deposits of CBBC Bank were insured by the Federal Deposit Insurance Corporation ("FDIC") at the time of the robbery.

25. On January 25, 2023, an arrest warrant was issued for HINES in United States District Court for the Eastern District of Tennessee based on a criminal complaint charging HINES with bank robbery and brandishing a firearm in furtherance of a crime of violence. On February 2, 2023, HINES was indicted by the Grand Jury for the Eastern District of Tennessee in Case No. 3:23-CR-9 on one count of Bank Robbery and one count of Brandishing a Firearm in furtherance of a crime of violence.

26. To my knowledge, none of the witnesses or victims of the bank robbery observed HINES in possession of a cellular telephone during the robbery. That, however, does not diminish the high probability that HINES possessed and likely used the TCL cell phone to effectuate the preparation and execution of the robbery of CBBC Bank on January 24, 2023, to include placing a false 9-1-1 call to BCSO Dispatch in order to divert and distract law enforcement. The systemic and pervasive use of cellular telephones by society generally cannot be denied. Indeed, Chief Justice Roberts, writing for a unanimous Court, observed that cellular telephones "are now such a pervasive and insistent part of daily life that the proverbial visitor from Mars might conclude they were an important feature of human anatomy." *Riley v. California*, 134 S. Ct. 2473, 2484 (2014). Additionally, I have investigated numerous robberies, and based on my training and experience, I know that criminals oftentimes take photographs and/or capture video of their proceeds on their cellular telephones. I also know that criminals oftentimes communicate with others about their crimes using their cellular telephones and that criminals check and disseminate stories in the press about their crimes. Moreover, if an accomplice was used for the robbery, communication likely would have occurred with co-conspirators or accomplices using the TCL cell phone prior to, during, and after the bank robbery. Based on my training and experience, I know that some cellular telephones equipped with GPS or location based services have the capability to store a log of geolocations where the cellular telephone has been utilized, which would likely show the presence of the TCL cell phone in the vicinity of the CBBC Bank, located at or near 2041 Topside Road, Louisville, Tennessee, at or near the time of

the robbery on January 24, 2023. Based on my training and experience, I know that the TCL cell phone is equipped with a camera, has GPS capability, and has the ability to connect to the Internet, in addition to making/receiving telephone calls and sending/receiving Short Message Service (SMS) and Multimedia Messaging Service (MMS) messages. As such, it is likely that the records and information stored on the TCL cell phone will constitute evidence of a crime and may contain photographs/videos of the target location, clothing worn during the robbery, the firearm used during the robbery, the vehicle used to flee the scene of the robbery and proceeds from the robbery. These records and information include but are not limited to:

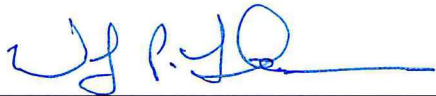
- a. Contacts;
- b. Call history;
- c. Calendar;
- d. Voicemails;
- e. SMS/MMS messages;
- f. Photographs and videos;
- g. Emails;
- h. Internet browsing history;
- i. Location information, to include global positioning data;
- j. Evidence of user attribution showing who used or owned the TCL cell phone at the time the things described above were created, edited, or deleted, such as logs, phonebooks, saved usernames and passwords, documents, and browsing history.

V.

CONCLUSION

27. Based on the foregoing, I believe there is probable cause to search the TCL cell phone, which is currently in possession of the Federal Bureau of Investigation ("FBI") and stored at the FBI Knoxville Field Office Evidence Control Room, located at or near 1501 Dowell Springs Boulevard, Knoxville, Tennessee 37909, for evidence of a crime; contraband, fruits of crime, or other items illegally possessed; property designed for use, intended for use, or used in committing a crime, as described in Attachment B, which is attached hereto and fully incorporated herein, in violation of Title 18, United States Code, Section 2113(a), bank robbery, and Title 18, United States Code, Section 924(c), use, possess, brandish a firearm in furtherance of a crime of violence. The search warrant would authorize the forensic examination of the cellular telephone for the purpose of identifying the electronically stored information described in Attachment B.

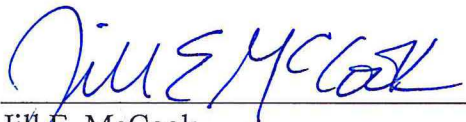
Respectfully submitted,



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Wesley P. Leatham  
Special Agent  
Federal Bureau of Investigation

Subscribed and sworn to before me on February 16th, 2023,



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Jill E. McCook  
United States Magistrate Judge